

321 CMR: DIVISION OF FISHERIES AND WILDLIFE.

321 CMR 4.00: FISHING.

**4.01: TAKING OF CERTAIN FISH.**

In accordance with the authority vested in me by the provisions of M.G.L. c. 131, §§ 4, 5 and 51, I hereby declare an open season for the taking of fish throughout Massachusetts and promulgate the following rules and regulations relating to their taking as hereinafter provided:

(1) Definitions: For the purposes of 321 CMR 4.01, the following words or phrases shall have the following meanings:

Broodstock Salmon means an Atlantic Salmon (*Salmo salar*) that has been reared in a hatchery for purposes of spawning and subsequently released into the wild.

Dealer means a person who commercially handles fish, birds, or mammals protected by M.G.L. c. 131 and who is licensed as a Class 6 dealer pursuant to M.G.L. c. 131, § 23.

Director means the Director of the Division of Fisheries and Wildlife or his authorized agent.

Float means any device, including a toggle, floating with a line and hook attached, baited with natural or artificial bait and not under the direct control of the hand of the person fishing.

Hook means an angling device which is attached to a fishing line and which is designed to take one fish at a time, including, but not limited to, devices commonly called spinners, spoons, bait harnesses, lead head jigs, or plugs, the purpose of which is to capture the fish by enticing it to take the device into its mouth, thereby engaging the fish upon it.

Lead Sinker means fishing devices including, but not limited to, split shot, bullet weights, egg sinkers, slip sinkers, bell sinkers, pinch sinkers, rubber grip sinkers, bank sinkers, pyramid sinkers, or twist, strap, or wrap-around sinkers. The term lead sinker does not include other lead-composition fishing-related object such as artificial lures, jigs, lead-core fishing line, down-rigger weights, keel sinkers, torpedo casting and trolling sinkers, and weighted flies.

Licensed fisherman means an angler who possesses a current valid Massachusetts fishing or sporting license in any of the following classes: F1, F2, F3, F4, F6, F7, F8, F9, S1, S2, or S3.

Minimum legal length in inches means the greatest length in inches measured from the anterior extremity of the snout with the mouth closed to the posterior

extremity of the tail with the lobes compressed when the fish is flat and fully extended.

Resident licensed fisherman means an angler who possesses a current valid Massachusetts fishing or sporting license in any of the following classes: F1, F2, F3, F4, F8, S1, S2, or S3.

Sell, in all its moods and tenses, means purchasing, selling, bartering, exchanging, and taking, offering, or exposing for the purpose of purchase, sale, barter, or exchange.

Shiner permit means a permit to take shiners for bait, as provided for in M.G.L. c. 131, § 52.

Snagging means the taking of fish, not attracted by bait or artificial lures, with hooks, gangs or lures either baited or unbaited, in a manner so as to pierce and hook a fish in any part of the body other than the mouth.

Tiger muskellunge means a sterile cross between a northern pike and a muskellunge.

Tiger trout means a cross between a female brown trout and a male brook trout.

Words importing the singular number may extend and be applied to several persons or things, words importing the plural number may include the singular, and words importing the masculine gender may include the feminine and neuter.

(2) Catch and Release Areas.

(a) The following general requirements shall pertain to all catch-and-release fishing areas. All fish caught must be released. Fishing allowed with artificial lures only. The use of natural or artificial baits such as worms, shiners or other live bait, cheese, corn, or salmon or other fish eggs is prohibited. Fish in possession in any catch-and-release area is prima facie evidence of a violation of 321 CMR 4.01(2). Catch-and-release fishing areas are named in 321 CMR 4.01(2)(b) to (i).

(b) East Branch Westfield River: extending from the Chesterfield Gorge parking lot in the Town of Chesterfield downstream six miles to the gate north of the Corps of Engineers basin parking lot at Knightville in the Town of Huntington.

(c) Higgins Pond: in the Town of Brewster.

(d) Millers River: Bears Den Segment, extending from a railroad bridge in the Towns of Athol and Templeton downstream 6½ miles to the first dam in the Town of Athol. Wendell Segment, extending from the Wendell Road bridge in the Towns of Orange and Wendell downstream 1½ miles to a breached dam in the Towns of Erving and Wendell.

(e) Nissitissit River: in the Town of Pepperell, extending from the New Hampshire border downstream to the Prescott Street bridge. In addition to the

provisions of 321 CMR 4.01(2)(a), fly fishing only is permitted on the Nissitissit River catch-and-release area. All anglers must use a conventional fly rod and fly line.

(f) Quashnet River: extending from its junction with Rte. 151 in the Town of Mashpee downstream 1½ miles to its junction with Rte. 28 in the Town of Falmouth.

(g) Swift River: From the Winsor Dam to the Rte. 9 bridge crossing. In addition to the provisions of 321 CMR 4.01(2)(a), fly fishing only is permitted on the Swift River between Winsor Dam and the Rte. 9 crossing. All anglers must use a conventional fly rod and fly line.

(h) Swift River: From the Rte. 9 bridge crossing downstream to Cady Lane. Catch-and-release fishing is mandated during the period from July 1 to December 31 only.

(i) Upper Deerfield River: Segment 1, extending from Fife Brook Dam downstream 1½ miles to the Hoosac Tunnel railroad trestle. Segment 2, extending from the mouth of Pelham Brook downstream one mile to the Mohawk Campground.

(j) Housatonic River: from the Rte. 20 bridge in Lee downstream to the Willow Mill Dam in Lee, and, from the Glendale Dam in Great Barrington downstream to the Boston and Maine railroad bridge in Great Barrington.

(3) Reservoirs under the Control of the Department of Conservation and Recreation. Quabbin Reservoir and that portion of its tributary streams within the Quabbin Reservation, Wachusett Reservoir, and Sudbury Reservoir are hereby closed to all fishing except during the open season for access as established by the Department of Conservation and Recreation.

(4) Prohibitions: Except as otherwise provided for in M.G.L. c. 131 and 321 CMR, it shall be unlawful:

(a) to fish in the Merrimack River in the area downstream from the Essex Dam to the Boston and Maine Railroad Bridge;

(b) to fish in the canal systems in the Cities of Lawrence and Lowell during the month of April;

(c) to take fish in the inland waters of Massachusetts by snagging;

(d) to take fish in the inland waters of Massachusetts by poison, explosive, float or toggle;

(e) to take fish in the inland waters of Massachusetts by any means other than angling, except that eels, carp, and suckers may be taken by spears or archery, and eels may be taken in pots by licensed commercial fishermen pursuant to 321 CMR 4.03;

(f) to take fish in the inland waters of Massachusetts by net, seine, trawl, or similar device, except for the taking of bait fish pursuant to M.G.L. c. 131, § 52, and 321 CMR 4.01(8), or for the taking of herring and alewives pursuant to M.G.L. c. 131, § 56;

(g) to set or use more than two hooks for fishing, or, in the case of ice fishing, five hooks.

(h) to take or attempt to take fish other than at a time provided herein or to possess at any time a greater number of fish or of fish of a length less than provided in 321 CMR 4.01 or to possess a fish at a period or in an area other than so provided. Such taking or possession shall be *prima facie* evidence of a violation of 321 CMR 4.01, provided, that the taking or having in possession of any fish of a length less than as provided in 321 CMR 4.01 if taken by a person lawfully fishing and immediately returned alive to the water from whence it was taken shall not constitute such a violation.

(i) to use lead sinkers for fishing in the Quabbin and Wachusett Reservoirs.

(5) Dukes and Nantucket Counties. The provisions of 321 CMR 4.01 shall not apply to the taking of white perch in Dukes and Nantucket Counties.

(6) Seasons, Dates, Creel and Size Limits, and Related Provisions. Open seasons, dates, provisions relative to certain waters, creel limits, minimum legal length in inches, and related provisions relative to the taking of certain fish in inland waters are set forth in Table 1.

(7) Jurisdictional boundaries: For the purpose of determining inter-agency jurisdictional boundaries between the Division of Fisheries and Wildlife and the Division of Marine Fisheries, a marker is hereby established on the Merrimack River. The marker shall be the first upstream or easternmost (i.e., northbound traffic) bridge of Rte. I-495 in the City of Haverhill. Waters of the Merrimack River downstream from said bridge shall be subject to the authority, rules and regulations, of the Division of Marine Fisheries. Waters upstream from said bridge shall be subject to the jurisdictional authority, rules and regulations, of the Division of Fisheries and Wildlife.

(8) Taking, sale, ~~and~~ importation, and use of bait fish.

(a) Definitions:

Bait fish means only live or dead fish of the following species. **A person shall not use as bait any fish, alive or dead, including parts thereof, except those fish listed below:**

1. American eel (*Anguilla rostrata*)
2. White sucker (*Catostomus commersoni*)
3. Creek chubsucker (*Erimyzon oblongus*)
4. Banded killifish (*Fundulus diaphanus*)
5. Mummichog (*Fundulus heteroclitus*)
6. Pumpkinseed (*Lepomis gibbosus*)
7. Golden shiner (*Notemigonus crysoleucas*)
8. Emerald shiner (*Notropis atherinoides*)
9. Spottail shiner (*Notropis hudsonius*)
10. Rainbow smelt (*Osmerus mordax*), only as provided in 321 CMR 4.01, Table 1.
11. Yellow perch (*Perca flavescens*)

12. Fallfish (*Semotilus corporalis*)
13. Bluntnose minnow (*Pimephales notatus*)
14. Fathead minnow (*Pimephales promelas*)
15. Herring (*Clupea* spp.) may be used for bait in the Connecticut River, Merrimack River, and coastal rivers and streams, **only as provided in 321 CMR 4.01, Table 1 and 322 CMR**, but may not be possessed or used as bait in other rivers and streams or in lakes, ponds, or reservoirs.

Commercial bait fish means only live or dead fish of the following species:

1. White sucker (*Catostomus commersoni*)
2. Mummichog (*Fundulus heteroclitus*)
3. Golden shiner (*Notemigonus crysoleucas*)
4. Emerald shiner (*Notropis atherinoides*)
5. Spottail shiner (*Notropis hudsonius*)
6. Fallfish (*Semotilus corporalis*)
7. Bluntnose minnow (*Pimephales notatus*)
8. Fathead minnow (*Pimephales promelas*)

(b) Taking for personal use, but not for purposes of sale. Licensed fishermen may take bait fish for personal use, but not for purposes of sale except as provided for in 321 CMR 4.01(8)(c).

(c) Taking for purposes of sale. Commercial bait fish may be taken for purposes of sale by resident licensed fishermen only, provided that such fishermen additionally possess a current and valid shiner permit, which permit shall allow the taking of commercial bait fish only. Bait fish, other than commercial bait fish, may not be sold.

(d) Bait fish harvest zones. Bait fish and commercial bait fish may be taken in inland waters statewide, except as provided in 321 CMR 4.01(8)(e).

(e) Prohibited areas. Commercial bait fish may not be taken in great ponds or in waters which are in whole or in part held under lease or license as public fishing grounds.

(f) Certain fish traps to be allowed. Resident licensed fishermen who possess a current and valid shiner permit may take commercial bait fish for purposes of sale by means of not more than ten fish traps with openings not over one inch or by means of a single circular or hoop throw net not exceeding six feet in diameter, or by means of a net containing not more than 200 square feet of net surface. Licensed fishermen may take bait fish for personal use but not for purposes of sale by means of a single fish trap with openings of not over one inch or by a single circular or hoop throw net not exceeding six feet in diameter to each licensed fisherman, or by means of a rectangular net, containing not more than 36 square feet of net surface. Any fish taken in such fish traps, other than those permitted by 321 CMR 4.01(8)(b) and (c), shall be immediately returned to the waters whence they were taken.

(g) Sticklebacks. The taking of sticklebacks (*Gasterosteidae*) for purposes of bait is prohibited in the inland waters of Massachusetts.

(h) Importation of live fish. Only commercial bait fish may be imported for use as live bait by any dealer. No commercial bait fish shall be imported unless the

dealer first obtains an importation permit from the Director. Such importation permit shall be valid for a period not to exceed one calendar year and shall further be valid for all importations within said calendar year of a single commercial bait fish species from a single dealer or distributor.

(i) Sale of live bait fish. No person shall sell or offer for sale any commercial bait fish unless such person is licensed as a dealer, or is a resident licensed fisherman and the holder of a current and valid shiner permit. Bait fish, other than commercial bait fish, may not be sold.

(j) Sale of preserved bait fish. Notwithstanding the provisions of 321 CMR 4.01(8), bait fish or parts thereof, commonly described as “minnows” or “shiners”, which are canned, pickled or otherwise commercially prepared and lawfully imported or propagated may be used or sold as bait without a permit.

Regulatory Authority: M.G.L. c. 131, §§4, 5 and 51.

TABLE 1

SPECIES	MINIMUM DAILY CREEL	LENGTH (INCHES)	OPEN SEASON (ALL DATES INCLUSIVE)
Brown Trout      Special Management Lakes/Ponds (as listed) <sup>1</sup>	1	15	Jan. 1 - Dec. 31
Total daily creel not to exceed one brown trout			
Brook, Brown,    Other Tiger & Rainbow Lakes Trout                & Ponds	3	None	Jan. 1 - Dec. 31
Total daily creel not to exceed three trout in any combination			
Brook, Brown,    Major Tiger & Rainbow Rivers Trout                (as listed) <sup>2</sup>	3	None	Jan. 1 - Dec. 31
Total daily creel not to exceed three trout in any combination			
Brook, Brown,    Other Tiger & Rainbow Rivers Trout                & Streams	8	None	Apr. 1 - Sep. 10
Total daily creel not to exceed eight trout in any combination			
Brook, Brown,    Other Tiger & Rainbow Rivers Trout                & Streams	3	None	Sep. 11 - Mar. 31
Total daily creel not to exceed three trout in any combination			

<sup>1</sup> Special Brown Trout Management Waters: South Pond (Quacumquasit), Brookfield.

<sup>2</sup> Major Trout Rivers: Childs River (Falmouth, Mashpee), Coonamesset River, Deerfield River, East Branch Swift River, East and West Branches Tully River, East Branch Ware River, Farmington River, Green River (Colrain), Green River (Great Barrington), Jones River (Kingston, Plympton), Ipswich River, Mashpee River, Millers River, Nissitissit River, North River (Colrain), Parker River, Quaboag River, Quinebaug River, Santuit River, Scorton Creek, Seven Mile River, Shawsheen River, Squannacook River, Stillwater River, Swift River (Winsor Dam to Ware River, except as posted), Ware River, West Branch North River, Westfield River (all branches).

SPECIES	MINIMUM DAILY CREEL	LENGTH (INCHES)	OPEN SEASON (ALL DATES INCLUSIVE)
Lake Trout (Wachusett Res.)	3	None	Jan. 1 - Dec. 31
Lake Trout (Quabbin Res.)	<b>All Other Waters</b>	<b>4 2</b>	<b>Less than 20 18</b>
Jan. 1 - Dec. 31			
Lake Trout (Quabbin Res.)	None	20-23	Jan. 1 - Dec. 31

Lake Trout (Quabbin Res.)	1	Greater than 23	Jan. 1 - Dec. 31
Landlocked Salmon	2	15	Jan. 1 - Dec. 31
Broodstock Salmon <sup>4</sup>	-	-	See Note #4
Atlantic Salmon <sup>4</sup>	-	-	See Note #4
Smelt <sup>5</sup>	-	None	May 16 - last day of Feb.
Sturgeon		No Open Season	
Black Bass (Largemouth or Smallmouth)	5	12	Jan. 1 - Dec. 31
Chain Pickerel	5	15	Jan. 1 - Dec. 31
Northern Pike	1	28	Jan. 1 - Dec. 31
Tiger Muskellunge	1	28	Jan. 1 - Dec. 31
Walleye	5	14	Jan. 1 - Dec. 31
American Shad	6	None	Jan. 1 - Dec. 31
Striped Bass <sup>6</sup>	See 322 CMR		
Herring	See 322 CMR		
All Other Species	-	None	Jan. 1 - Dec. 31

<sup>4</sup> Atlantic Salmon and Brood Salmon: The harvest of Atlantic salmon (including broodstock salmon) is lawful in all inland waters of Massachusetts, except in (a) the Connecticut River and all its tributaries, and (b) the Merrimack River downstream of the Essex Dam in the City of Lawrence, and all tributaries of the Merrimack River downstream of the Essex Dam in the City of Lawrence. No person shall possess an Atlantic salmon (including broodstock salmon) while fishing in the Connecticut River and all its tributaries, or in the Merrimack River downstream of the Essex Dam in the City of Lawrence, or in any tributary of the Merrimack River downstream of the Essex Dam in the City of Lawrence.

<sup>5</sup> Smelt may be taken in all inland waters by hook and line only from May 16 to the last day of February, excepting Quabbin Reservoir, where smelt may only be taken in open water where legal fishing is permitted from May 16 to the end of the Quabbin fishing season. There is no daily or seasonal limit for smelt on these waters. The possession of smelt or their use as bait in inland waters other than during the established open season on smelt is prohibited.

<sup>6</sup> Sale of striped bass from inland waters is prohibited.

No person shall take more than eight brook, brown, tiger, or rainbow trout in any one day in the aggregate from all waters.